

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

TRI COUNTY TELEPHONE  
ASSOCIATION, INC.

Plaintiff,

vs.

JOE CAMPBELL AND BARBARA  
CAMPELL et al.,

Defendants.

FILED  
  
1:45 pm, 3/22/19  
Stephan Harris  
Clerk of Court

Case No: 17-CV-89-F

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**ORDER GRANTING MOTION FOR EXTENSION OF TIME**

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This matter is before the Court on Plaintiff Tri County Telephone, Inc.'s Motion for Extension of Time. (Doc. 101). The Court has reviewed the motion and response and is fully informed in the premises. For the following reasons, the Motion is GRANTED.

On March 1, 2019, Defendants Joe and Barbara Campbell filed for summary judgment in this matter. (Doc. 94). This motion came roughly one month before the dispositive motions deadline in this case. (Doc. 88). Tri County failed to respond by the March 15, 2019 deadline. Consequently, the Campbells filed a Notice of Non-Response on March 18, 2019. (Doc. 98).

On March 21, 2019, Tri County filed a Motion for Extension of Time. (Docs. 101, 102). Tri County asked the Court to extend its response deadline to April 12, 2019. Tri County argued that it misapprehended discussions that took place during status conferences with Magistrate Judge Rankin on March 1, 2019 and this Court on March 4,

2019. Since the Court extended discovery deadlines during those conferences, Tri County apparently assumed it did not need to respond to the Campbells' summary judgment motion until it secured this important discovery. Indeed, Tri County has not yet deposed Joe and Barbara Campbell, defendants in this case. The Campbells' depositions are scheduled to take place on March 27, 2019 and March 28, 2019. For these reasons, Tri County suggests relief is proper under Fed. R. Civ. P. 56(d).

The Campbells filed a response on March 22, 2019 (Doc. 103). The Campbells contend that Tri County inaccurately claims it must merely demonstrate "good cause" to justify relief. Fed. R. Civ. P. 6(b)(1)(A). According to the Campbells, Tri County's motion is governed by the more burdensome "excusable neglect" standard of Fed. R. Civ. P. 6(b)(1)(B). Moreover, the Campbells contend that Tri County's claimed general need for more discovery does not justify relief under Fed. R. Civ. P. 56(d).

The Court appreciates many of the Campbells' arguments. The Court's Order on Initial Pretrial Conference clearly indicates litigants must respond in accordance with U.S.D.C.L.R. 7.1 where parties file dispositive motions in advance of the Court-mandated deadline. (Doc. 22). Nonetheless, the Court also recognizes the Tenth Circuit's preference for district courts to decide cases on their merits. *Rachel v. Troutt*, 820 F.3d 390, 394 (10th Cir. 2016). Despite Tri County's failure to strictly comply with response deadlines, the Court finds this plaintiff should have an opportunity to depose the Campbells before responding to the pending Motion for Summary Judgment. As such, relief under Fed. R. Civ. P. 56(d) is proper.

IT IS ORDERED that Tri County's Motion for Extension (Doc. 101) is GRANTED.

IT IS FURTHER ORDERED that Tri County must respond to the Campbells' pending Motion for Summary Judgment on or before April 12, 2019.

Dated this 22nd day of March, 2019.

  
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NANCY D. FREUDENTHAL  
UNITED STATES DISTRICT JUDGE